GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri K.Venkateswarlu, S/o K.Bandiyya, Superintendent (Admn), DCIL, Visakhapatnam District, against the proceedings (M)Rc.No.7577/94/C5, dt. 02.11.2005 of the District Collector, Visakhapatnam - under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/ 1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms. No.4 **Dated:18.01.2017**

Read the following:

1. Proceedings of the Dist. Collector, Visakhapatnam, (M)Rc.No. 7577/94/C5, dt.02.11.2005.
2. Appeal Petition filed by Sri K. Venkateswarlu, S/o K. Bandiyya, Superintendent(Admn), DCIL, Visakhapatnam District received through his Advocate, dt.02.12.2005.
3. Govt. Memo No.9898/CV.2/2005, SW (CV.2) Dept., dt:13.12.2005.
4. Order of the Hon'ble High Court in W.P. No.26103/2005, dated 07.12.2005 filed by the Appellant.
5. From the Dist. Collector, Visakhapatnam, Lr.Rc.No.1695/2006/C5, dated:19.10.2006.
6. Govt. Memo No. 9898/CV.2/2005, S.W.(CV.2) Dept., dt:28.07.2007 & 20.08.2007.
7. Govt. Memo No.9898/CV.2/2005, S.W.(CV.2) Dept., dt: 28.04.2012, 20.10.2012, 16.01.2013, 31.08.2013, 13.10.2014 & 24.11.2014.
8. Govt. Memo No.9898/CV.2/2005, S.W.(CV.2) Dept., dt:23.02.2015, 02.04.2015 & 26.04.2016.

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ORDER:

In the reference 1st read above, the District Collector, Visakhapatnam has issued orders canceling the ST – Yanadi Caste Certificate obtained from the then Tahsildar, S.Kota & Kothavalasa in 1976 & 1990 respectively by Sri K.Venkateswarlu, S/o K.Bandiyya.

2. In the reference 2nd read above, Sri K.Venkateswarlu, S/o K.Bandiyya has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Visakhapatnam. After examining the said Appeal Petition, Government have admitted the Appeal Petition, duly rejecting the stay petition and called for the parawise remarks and connected records from the District Collector, Visakhapatnam in the reference 3rd read above.

3. Sri K.Venkateswarlu, S/o K.Bandiyya has filed W.P. No.26103/2005, before the Hon'ble High Court, against the proceedings(M)Rc.No.7577/94/C5, dt.02.11.2005 of the District Collector, Visakhapatnam & Govt. Memo No. 9898/CV.2/2005, dated 13.12.2005. In the reference 4th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 07.12.2005 has issued stay orders on the proceedings of the District Collector, Visakhapatnam, during the pendency of the appeal before the Government.

4. In the reference 5th read above, the District Collector, Visakhapatnam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri K.Venkateswarlu, S/o K.Bandiyya .

5. The said Appeal Petition has been posted for hearing on 16.08.2007, 31.08.2007, 10.05.2012, 30.10.2012, 21.01.2013, 12.09.2013, 25.10.2014, 13.12.2014, 28.02.2015, 18.04.2015 and finally on 14.05.2016 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 6th to 8th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing

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which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government .

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Visakhapatnam and proceedings of the District Collector, Visakhapatnam, dated 02.11.2005, the Appellate Authority has observed as follows:

I. The Appellant in his grounds has stated the District Level Scrutiny Committee had erroneously concluded that concerned authorities have not issued the caste certificate to the appellant and further, the DLSC has cancelled the caste certificate of the appellant in a mechanical manner without applying its mind to the facts of the case. Hence the Appellant is substantial rights were affected by the virtue of the said findings.

II. The DLSC has observed that the appellant was selected to the post of Typist in Dredging Corporation of India Ltd., VSP during the year 1974 against ST Certificate issued by Tahsildar, S.Kota, Vizianagaram District and he was promoted as Sr. Assistant on the strength of ST quota. On verification of caste certificate, purported to have been issued to the individual by the Tahsildar, S.Kota, Vizianagaram, it is found that it is not a Xerox copy of original caste certificate and it is a copy of certificate duly typed 'SD/- xxx, Tahsildar, S.Kota without signature of the Tahsildar, S.Kota. Hence, the Vigilance Officer, DCIL, has requested the District Collector, Vizianagaram to conduct enquiry about the genuineness of the caste certificate. Accordingly, the MRO, Kothavalasa has enquired and submitted a report that **no Yanadi caste certificate was issued to the person by name K. Venkateswarlu and his whereabouts were also not known at Ganisettipalem (V) of Kothavalasa (M)** and the caste certificate No. R.Dis.No.442/74-75, dt.16.06.1976 and SR No. 567/909, dt.09.07.1990 were not issued by the respective offices and also informed that the question of cancellation did not arise and the same was informed by the District Collector, Vizianagaram to the Chairman & MD., DCIL, Visakhapatnam.

III. The DLSC has also observed that the MRO, Pendurthi has enquired into the matter in Rampuram & Vepagunta villages on the permanent address of the appellant and reported that the appellant does not belong to ST-Yanadulu caste and he belongs to BC-Padmasali community as per the depositions given by the Panchayat Secretary, Panchayat Sarpanch and village Talayari of Vepagunta during the local enquiry. The MPHS DATA also reveals that the appellant and his family belongs to Padmasali community.

IV. After several adjournments, the Appellate Authority finally heard the case on 14.05.2016 on that day, the advocate for the Appellant argued the case that the appeal is liable to be allowed and repeated the same points as found in the appeal grounds.

V. Further, the Appellate Authority observed that the caste certificate alleged to be issued by Tahsildar, S.Kota on 16.6.1976 and the caste certificate issued by MRO, Kothavalasa are found to be created by the appellant and there is no record for the said certificate in the office of the Mandal Revenue Officer Kothavalasa or Mandal Revenue Officer S. Kota. Further the appellant obtained caste certificate fraudulently by suppressing and mis-representing the facts before the Mandal Revenue Officer, Kothavalasa for obtaining a false and bogus caste certificate as ST-Yanadi even though he belongs to Padmasali – BC-B Community. No original record in proof of grant of caste certificate in favour of the appellant is found in the office of

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Mandal Revenue Officer, Kothavalasa and on thorough enquiry it is found that the individual has fabricated and forged the said caste certificate.

VI. Further, the Appellate Authority is also observed that the lower authorities had rightly decided to prosecute the individual under criminal law as he played fraud and fabricated a caste certificate. The Government having gone through entire record is of considered view that the individual belongs to Padmasali-BC and so also his parents and relatives in Vepagunta village of Pendurthi Mandal. The appellant has played a fraud by creating a false caste certificate from Kothavalasa Mandal of Vizianagaram District. The findings of District Level Scrutiny Committee are absolutely True, the learned Collector, Vishakhapatnam rightly cancelled the caste certificate. In spite of grant of several opportunities the appellant could not produce a scrap of paper. It is clear case of fabrication of false case certificate to deprive statutory benefits such as employment etc. with the said certificate, he got employment and he also got several promotions causing injustice and depriving a tribe who would have been in said position to get it, in the absence of the above fraud. At the cost of repetition it should be said that the present appeal and the acts of appellant are a clear case of fraud and abuse of process of law.

VII. Further, in the instant case the Appellate Authority has also observed that the appellant never appeared before the Government, he did not file even a scrap of paper for substantiation of his caste, though the Government is liberal in receiving the documents and considering the same at any stage. The Government, in order to ensure that the principles of natural justice are scrupulously followed, the Appellant was given ample opportunity to file any records or documents in proof of his caste. As per section 6 of Act 16 of 1993, the burden of proof lies on the Appellant. The allegation of violation of principles of natural justice by the collector is out and out false as the individual did not show his face despite having been given several opportunities by the (District Level Scrutiny Committee) has he knows that his case is palpably false, so also before the Government on any date of adjournment. Hence no infirmity is found in the above Order of the District Collector.

07. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Appeal Petition filed by Sri K.Venkateswarlu, S/o K. Bandiyya does not deserve any interference and hence, the Proceedings of the District Collector, Visakhapatnam issued vide (M)Rc.No.7577/94/C5, dt.02.11.2005, is hereby upheld and the Appeal Petition filed by Sri K.Venkateswarlu, S/o K. Bandiyya is hereby dismissed.

08. The District Collector, Visakhapatnam is directed to take necessary consequential action in the matter, to initiate steps for prosecution, if not already initiated.

09. The records (containing (M)Rc.No.7577/94/C5, dt.02.11.2005, pages: CF- 251 + NF -21) received from the District Collector, Visakhapatnam through 5th read above, are returned herewith in original to the District Collector, Visakhapatnam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To

The District Collector, Visakhapatnam
(with original records) (BY RPAD)

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Sri K.Venkateswarlu, S/o K. Bandiyya,
Superintendent (Admn), DCIL, Visakhapatnam,
R/o1-66, Vepagunta, Visakhapatnam.
(through the Chairman-cum-Managing Director,
Dredging Corporation of India Ltd., Visakhapatnam District)

Sri B.V. Krishna Rao, Advocate,
H.No. 2-1-549, NallaKunta, Hyderabad- 500044.
P.No. 9848373944

The Chairman-cum-Managing Director,
Dredging Corporation of India Ltd.,
Visakhapatnam District.

Copy to:

The Home (Courts.A) Department.
The Director, TCR& TI, AP, Amravati.
P.S. to Hon'ble Minister(SWE&TWE)
P.S. to Principal Secretary (TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER